

SPECIAL CIVIL APPLICATION NO.10275 OF 1995

CORAM : N N MATHUR, J.

(Date:6.3.1996)

Mr H M Mehta, Sr.Counsel with Mr Shirish Joshi, Advocate for the petitioner

Mr Tushar Mehta, Advocate for respondent No.4

Mr N D Nanavati, Sr.Counsel for respondent No.6

Mr M R Anand, Sr.Counsel & G.P. with Ms.Harsha Devani, AGP for the respondents

ORAL ORDER

The grievance voiced by the petitioner-Kodinar Taluka Co-operative Banking Union Ltd., (for short, 'the petitioner Union') which is a Central Financing Agency doing the activity of financial assistance and other facilities to the member societies, is that the sugar factories have stopped taking loans from the petitioner-union, as the State Cooperative Bank has started paying huge amount as loan to farmers. This way, the State Cooperative Bank has encroached upon the activities of the District Cooperative Bank.

2. Mr Haroobhai Mehta, Sr.Advocate appearing for the petitioner had invited my attention to the Memorandum of Undertaking (for short, 'MOU') entered into by the petitioner-Union i.e. Kodinar Taluka Coop.Banking Union Ltd. and Gujarat State Cooperative Bank Ltd. with National Bank for Agriculture & Rural Development (for short 'NABARD') to ensure satisfactory compliance with the more important of the Action points/comments emerging from the DAP of petitioner bank as a precondition for continued financial and other support from NABARD. He has referred to various paragraphs of the MOU. The emphasis is laid on para 8.7 which provides that the Gujarat State Cooperative Bank shall transfer entire loan accounts of Bileshwar Khand Udyog Khedut Sahakari Mandli to the Kodinar TCBU before 30th June, 1995.

3. An affidavit has been filed by Mr Navghanbhai J Barad, Legal Officer of respondent No.6-Society. Various objections have been raised with respect to the maintainability of this petition. On the facts of the case, it is stated that since the year 1991, the petitioner-Union is incurring loss at an exceeding speed, and therefore, the same is not a viable unit. In view of

the ultimate prayer in this Special Civil Application to the effect that respondents No.1, 2, and 3 i.e. the Registrar, Cooperative Societies and the State Government be directed to exercise the powers under section 160 of the Gujarat Cooperative Societies Act, 1961 or any other provisions of the said Act to stop the Gujarat State Cooperative Bank Ltd. from making availing any finance for the working capital or in any other form to the Bileshwar Khand Udyog Khedut Sahkari Mandli Ltd. over and above Rs.750/- lakhs as appearing in the Government Resolution dated 16.8.1995 - Annexure 'P' to the petitioner. It is not necessary to go into the contentions raised by the parties. Mr N D Nanavati, learned Sr.Counsel appearing for respondent No.6 submits that in the facts of the case the only proper remedy available is under section 96 of the Act and not under section 160 of the Act. It is also contended by Mr Nanavati that the petitioner's grievance cannot be entertained by the Registrar, Cooperative Societies under the provisions of Section 160 of the Act. Mr Haroobhai Mehta has invited my attention to the representation made to the General Manager, NABARD dated 12.10.1994. A copy of which has been given to the Registrar, Cooperative Societies. While endorsing the copy, a request has also been made to refer to previous letter dated 8.8.1994 and 6.10.1994. Mr Mehta also submits that the petitioner even now is prepared to submit a fresh representation. In view of these facts, it is desirable for the petitioner to make a fresh representation to the Registrar, Cooperative Societies. If such a representation is made within a period of two weeks from today, the Registrar, Cooperative Societies shall take a decision thereon within a period of one month after giving an opportunity of hearing to the petitioner, respondent No.4-Gujarat State Cooperative Bank and the respondent No.6-Bileshwar Khand Udyog Khedut Sahkari Mandli Ltd. The Registrar shall dispose of the matter expeditiously say within a period of 4 weeks from the date of receipt of the representation. It goes without saying that the pendency of the representation will not prejudice either of the parties. Both the parties are at liberty to raise all contentions before the Registrar.

With the aforesaid, this Special Civil Application is disposed of. Notice discharged.

Date: 6.3.1996

(N N MATHUR, J,)

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